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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,383	11/03/2005	Kazuhiro Ban	03500.102556	7546
5514 7590 03/17/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
SAJJADI, FEREDOUN GHOTB				
ART UNIT		PAPER NUMBER		
1633				
MAIL DATE		DELIVERY MODE		
03/17/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/555,383

**Applicant(s)**

BAN ET AL.

**Examiner**

FEREYDOUN G. SAJJADI

**Art Unit**

1633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 and 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***QUAYLE ACTION***

***Claim Status***

Applicants' response dated December 22, 2008 in response to the second restriction requirement dated November 28, 2008 has been entered. Applicants' election of SEQ ID NO: 1, without traverse is acknowledged., Claims 1-8 and 11-15 are pending in the application. Claims 1-8 and 11-14 stand withdrawn from further consideration, without traverse, as drawn to non-elected inventions. Claim 15 is under current examination.

The brief description of the drawings corresponding to Figures 1-5 was previously objected to as failing to describe reference characters contained therein in the brief description of the figures. Applicants have correctly noted that the reference characters are adequately described in the detailed description of the specification. Accordingly, the objection is hereby withdrawn.

Claims 9 and 10 were previously objected to for employing terminology not descriptive of the invention. Applicants' cancellation of the claims obviates their objections. Thus, the objections are hereby withdrawn.

Claim 9 was rejected under 35 U.S.C. 102(b) as being anticipated by Coletti-Previero et al. (Anal. Biochem. 180:1-10, 1989), in the previous office action dated May 29, 2008. Applicants' cancellation of the claim renders its rejection moot. Hence, the rejection is hereby withdrawn.

Claims 9 and 10 were rejected under 35 U.S.C. 102(b) as being anticipated by Wagner et al. (U.S. Patent Application Publication 2002/0106702), in the previous office action dated May 29, 2008. Applicants' cancellation of the claims renders their rejection moot. Hence, the rejections are hereby withdrawn.

Claim 15 is directed to a method of manufacturing a structure comprising SEQ ID NO: 1, that appears to be free of the prior art.

This application is in condition for allowance except for the following formal matters:

The elected generic claims 9 and 10 have been rejected (now cancelled). New claim 15 embraces elected SEQ ID NO: 1. Applicants are required to cancel non-elected SEQ ID NO: 30, recited in claim 15, not subject to rejoinder. Applicants are further required to cancel non-

elected, withdrawn product claims 1-8 and 11-14, as they are not subject to rejoinder with allowable method claim 15 (see MPEP 821.04). Applicants are invited to contact the Examiner by telephone should further clarification be required..

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FEREYDOUN G. SAJJADI whose telephone number is (571)272-3311. The examiner can normally be reached on 6:30 AM-3:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Woitach can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fereydoun G Sajjadi/  
Examiner, Art Unit 1633